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CONTENTS

No.		Page No.	Gazette No.
	GENERAL NOTICE		
National Treasury			
General Notice			
71	Local Government: Municipal Finance Management Act (56/2003): Draft Municipal Budget and Reporting Regulations: Call for comments	3	31804

GENERAL NOTICE

NOTICE 71 OF 2009

NATIONAL TREASURY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003
DRAFT MUNICIPAL BUDGET AND REPORTING REGULATIONS

CALL FOR COMMENTS

I, Trevor A. Manuel, Minister of Finance, with the concurrence of the Minister for Provincial and Local Government, hereby publish draft regulations, to be made in terms of section 168 of the Municipal Finance Management Act, 2003, (Act No. 56 of 2003), for public comment in accordance with section 169(1)(b) of the Act, as set out in the Schedule.

Interested persons may submit their comments on the draft regulations in writing on or before the 5 March 2009 to: The Director-General, c/o Mr Jan Hattingh, National Treasury, Private Bag X115, Pretoria, 0001 or per fax to (012) 395 6553 or email to MFMA@treasury.gov.za

Kindly provide the name, address, telephone, fax numbers and/or email address of the person or organization submitting the comments.

T.A. MANUEL, MP
MINISTER OF FINANCE

ADVISORY REGARDING THE IMPLEMENTATION OF THE MUNICIPAL BUDGET AND REPORTING REGULATIONS

To provide for phased implementation, the following municipalities are advised to prepare their 2009/10 budgets in accordance with these draft Regulations, as these municipalities will be required to comply fully with the Regulations as from 1 July 2009.

Metropolitan municipalities	
Code	***Name***
WC000	City of Cape Town
GT001	City of Johannesburg
GT002	City of Tshwane
KZ000	eThekwini
GT000	Ekurhuleni
EC000	Nelson Mandela Bay
Secondary Cities	
Code	***Name***
EC125	Buffalo City
FS172	Mangaung
FS184	Matjhabeng
GT421	Emfuleni
GT481	Mogale City
KZN225	Msunduzi
KZN252	Newcastle
KZN282	uMhlathuze
LIM354	Polokwane
MP312	Emalahleni (Mp)
MP307	Govan Mbeki
MP322	Mbombela
MP313	Steve Tshwete
NW403	City Of Matlosana
NW372	Madibeng
NW373	Rustenburg
NW402	Tlokwe
NC091	Sol Plaatje
WC023	Drakenstein
WC044	George
WC024	Stellenbosch

All other municipalities are encouraged to prepare their 2009/10 budgets in accordance with these draft Regulations in preparation for full compliance with the Regulations as from 1 July 2010.

SCHEDULE

NATIONAL TREASURY

DRAFT

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT

MUNICIPAL BUDGET AND REPORTING REGULATIONS

FOR PUBLIC COMMENT

TABLE OF CONTENTS

CHAPTER 1

INTERPRETATION, OBJECT AND APPLICATION OF THESE REGULATIONS

1. Definitions
2. Object of these Regulations
3. Application of these Regulations

CHAPTER 2

BUDGET AND BUDGET RELATED MATTERS OF MUNICIPALITIES

Part 1: General provisions

4. Budget steering committee
5. Quality certification
6. Consistency in bases of measurement and accounting policies

Part 2: Budget-related policies of municipalities

7. Preparing and amending budget-related policies
8. Funding and reserves policies

Part 3: Annual budgets of municipalities

9. Format of annual budgets
10. Funding of expenditure
11. Funding of capital expenditure
12. Funds created in terms of section 12 of the Act
13. Approval of capital projects
14. Tabling of annual budgets in municipal councils
15. Publication and submission of annual budgets for consultation
16. Consideration of annual budgets by municipal councils
17. Approval of annual budgets
18. Publication of approved annual budgets
19. Publication of approved service delivery and budget implementation plan
20. Submission of approved annual budget and other documents

Part 4: Adjustments budgets of municipalities

21. Formats of adjustments budgets
22. Funding of adjustments budgets
23. Timeframes for tabling adjustments budgets
24. Submission of tabled adjustments budgets
25. Approval of adjustments budgets
26. Publication of approved adjustments budget
27. Submission of approved adjustments budget and other documents

Part 5: In-year reports of municipalities

28. Format of monthly budget statements
29. Tabling of monthly statements
30. Publication of monthly budget statements
31. Quarterly reports on implementation of budget
32. Publication of quarterly reports on implementation of budget
33. Format of mid-year budget and performance assessment

34. Publication of mid-year budget and performance assessments
35. Submission of mid-year budget and performance assessments

CHAPTER 3
BUDGET AND BUDGET RELATED MATTERS OF MUNICIPAL ENTITIES
Part 1: General provisions
36. Quality certification
37. Consistency in bases of measurement and accounting policies

Part 2: Funding and reserves policy of municipal entities
38. Funding and reserves policies

Part 3: Annual budgets of municipal entities
39. Format of annual budget
40. Funding of expenditure
41. Funding of capital expenditure
42. Parent municipalities to submit information relating to approval of capital projects by municipal entities
43. Submission of annual budgets to parent municipality
44. Approval of annual budget
45. Submission of approved annual budgets for tabling
46. Publication of approved annual budgets
47. Submission of approved annual budgets

Part 4: Adjustments budgets of municipal entities
48. Formats of adjustments budgets
49. Framework for adjustments budgets
50. Approval of adjustments budgets
51. Submission of approved adjustments budgets
52. Publication of approved adjustments budgets
53. Submission of approved adjustments budgets

Part 5: In-year reports of municipal entities

54. Formats of monthly budget statements
55. Submission of monthly budget statements
56. Format of mid-year budget and performance assessment
57. Tabling of mid-year budget and performance assessments
58. Publication of mid-year budget and performance assessments
59. Submission of mid-year budget and performance assessments

CHAPTER 4

NON-COMPLIANCE WITH TIME PROVISIONS

Part 1: Impending non-compliance by municipalities with time lines and deadlines concerning annual budgets

60. Applications for extension of time limits
61. Framework for consideration of applications
62. Possible non-compliance with section 16(1) of the Act

Part 2: Actual non-compliance by municipalities with time provisions concerning annual budgets and adjustments budgets

63. Notification of actual non-compliance with time provisions
64. Framework for consideration of notifications of non-compliance with time provisions affecting annual budgets and adjustments budgets

Part 3: Non-compliance by municipalities with time provisions concerning in-year reports

65. Notification of non-compliance with time provisions concerning in-year reports
66. Framework for consideration of notifications of non-compliance with time provisions concerning in-year reports

Part 4: Non-compliance by municipal entities with time provisions

67. Monitoring compliance with time provisions
68. Notifications of non-compliance with time provisions
69. Framework for consideration of notifications of non-compliance with time provisions

70. Submission of information to National Treasury

CHAPTER 5

FRAMEWORK FOR UNFORESEEN AND UNAVOIDABLE EXPENDITURE

Part 1: Unforeseen and unavoidable expenditure by municipalities

71. Authorisation of unforeseen and unavoidable expenditure

72. Monetary limits on unforeseen and unavoidable expenditure

Part 2: Unforeseen and unavoidable expenditure by municipal entities

73. Approval of unforeseen and unavoidable expenditure

CHAPTER 6

UNAUTHORIED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE

Part 1: Unauthorised, irregular or fruitless and wasteful expenditure by municipalities

74. Issues to be considered by council committee

Part 2: Irregular or fruitless and wasteful expenditure by municipal entities

75. Recovery of irregular or fruitless and wasteful expenditure

76. Board may not delegate authority to certify expenditure as irrecoverable

77. Short title and commencement

SCHEDULES

Schedule A – Annual Budget and Supporting Documentation of Municipalities

Schedule B – Adjustments Budget and Supporting Documentation of Municipalities

Schedule C – In-year Reports of Municipalities

Schedule D – Annual Budget and Supporting Documentation of Municipal Entities

Schedule E – Adjustments Budget and Supporting Documentation of Municipal Entities

Schedule F – In-year Reports of Municipal Entities

Schedule G – Extensions and Non-compliance with Time Provisions

CHAPTER 1
INTERPRETATION, OBJECT AND APPLICATION OF THESE REGULATIONS

Definitions

1. (1) In these Regulations, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and unless the context indicates otherwise –

"Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"in-year reports", in relation to –

(a) a municipality, means –
  (i) a monthly budget statement of the municipality contemplated in section 71(1) of the Act;
  (ii) a quarterly report on the implementation of the budget and financial state of affairs of the municipality contemplated in section 52(d) of the Act; or
  (iii) a mid-year budget and performance assessment of the municipality contemplated in section 72 of the Act; and

(b) a municipal entity, means –
  (i) a monthly budget statement of the entity contemplated in section 87(11) of the Act; or
  (ii) a mid-year budget and performance assessment of the entity contemplated in section 88 of the Act;

"quality certificate", in relation to –

(a) a municipality, means a certificate issued and signed by the municipal manager of the municipality confirming the accuracy and reliability of the contents of a document prepared or issued by the municipality; or

(b) a municipal entity, means a certificate issued and signed by the chief executive officer of the entity confirming the accuracy and reliability of the contents of a document prepared or issued by the entity;

"Schedule" means a Schedule to these Regulations;

"supporting documentation", in relation to –

(a) an annual budget of a municipality, means documentation referred to in section 17(3) of the Act;

(b) an annual budget of a municipal entity, means documentation that informs the annual budget;

(c) an adjustments budget of a municipality, means documentation referred to in section 28(5)(d) of the Act; or

(d) an adjustments budget of a municipal entity, means documentation that informs the adjustments budget.

(2) In these Regulations –

(a) a word or expression which is a derivative or other grammatical form of a word or expression defined in subregulation (1), has a corresponding meaning unless the context indicates that another meaning is intended; and

(b) a footnote may be taken into account in determining the meaning of a provision of these Regulations, but only as an opinion on the information it conveys.

Object of these Regulations

2. The object of these Regulations is to secure sound and sustainable management of the budgeting and reporting practices of municipalities and municipal entities by establishing uniform norms and standards and other requirements for ensuring transparency, accountability and appropriate lines of responsibility in the budgeting and reporting processes of those institutions and other relevant matters as required by the Act.

Application of these Regulations

3. These Regulations apply to all municipalities and municipal entities.

CHAPTER 2
BUDGETS AND BUDGET RELATED MATTERS OF MUNICIPALITIES

Part 1: General provisions

Budget steering committee

4. (1) The mayor of a municipality must establish a budget steering committee to assist the mayor in discharging the responsibilities set out in section 53 of the Act.

(2) The steering committee must consist of at least the following persons:

(a) the councillor responsible for financial matters;

(b) the municipal manager;

(c) the chief financial officer;

(d) the senior managers responsible for at least the three largest votes in the municipality;

(e) the manager responsible for planning; and

(f) any technical experts on infrastructure.

Quality certification

5. Whenever an annual budget and supporting documentation, an adjustments budget and supporting documentation or an in-year report of a municipality is submitted to the mayor, tabled in the municipal council, made public or submitted to another organ of state, it must be accompanied by a quality certificate complying with Schedule A, B or C, as the case may be, and signed by the municipal manager.

Consistency in bases of measurement and accounting policies

6. The municipal manager of a municipality must take all reasonable steps to ensure that –

(a) the basis of measurement and accounting policies underpinning the municipality's annual financial statements are the same as those used in the

preparation of the municipality's annual budget and supporting documentation, its adjustments budgets and supporting documentation, and its in-year reports; and

(b) any differences or changes between financial years are explicitly noted.

Part 2: Budget-related policies of municipalities

Preparing and amending budget-related policies

7. (1) The municipal manager of a municipality must prepare, or take all reasonable steps to ensure the preparation of the budget-related policies[1] of the

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[1] As defined in section 1 of the Act. Policies that affect or are affected by the annual budget of a municipality include -

(a) the tariffs policy which the municipality must adopt in terms of section 74 of the Municipal Systems Act;

(b) the rates policy which the municipality must adopt in terms of section 3 of the Municipal Property Rates Act;

(c) the credit control and debt collection policy which the municipality must adopt in terms of section 96 of the Municipal Systems Act;

(d) the cash management and investment policy which the municipality must adopt in terms of section 13(2) of the Act;

(e) a borrowing policy which must comply with Chapter 6 of the Act;

(f) a funding and reserves policy;

(g) a policy related to the long-term financial plan;

(h) the supply chain management policy which the municipality is required to adopt in terms of section 111 of the Act;

(i) any policies dealing with the management and disposal of assets;

(j) any policies dealing with infrastructure investment and capital projects, including –

  (i) the policy governing the planning and approval of capital projects; and

  (ii) the policy on developer contributions for property developments;

(k) the indigents policy of the municipality;

(l) any policies related to the provision of free basic services;

(m) any policies related to budget implementation and monitoring including –

  (i) a policy dealing with the shifting of funds within votes;

  (ii) a policy dealing with the introduction of adjustments budgets;

  (ii) policies dealing with unforeseen and unavoidable expenditure; and

  (iii) policies dealing with management and oversight;

municipality, or any necessary amendments to such policies, in accordance with the legislation applicable to those policies for tabling in the municipal council by the applicable deadline specified by the mayor in terms of section 21(1)(b) of the Act.

Funding and reserves policies

8. (1) Each municipality must have a funding and reserves policy which must set out the assumptions and methodology for estimating –

(a) projected billings and collections;

(b) the provision for revenue that will not be collected;

(c) the funds the municipality can expect to receive from investments;

(d) the dividends the municipality can expect to receive from municipal entities;

(e) the proceeds the municipality can expect to receive from the transfer or disposal of assets;

(f) the municipality's borrowing requirements; and

(g) the funds to be set aside in reserves.

(2) When developing or amending the funding and reserves policy of the municipality, the municipal manager must ensure that the policy –

(a) is consistent with the most recent actual billings and collection trends;

(b) takes into account the credit rating of the municipality, the financial position of the municipality, the cost of borrowing and the capacity to repay debt;

(c) takes into account all the budget-related policies of the municipality, particularly recent amendments to any of those policies;

(n) any policies related to managing electricity and water including –

  (i) a policy related to the management of losses; and

  (ii) a policy to promote conservation and efficiency;

(o) any policies relating to personnel including policies on overtime, vacancies and temporary staff;

(p) any policies dealing with municipal entities, including –

  (i) the service delivery agreement; and

  (ii) the dividend preference of the municipality; and

(q) any other budget-related or financial management policies of the municipality.

(d) takes account of any statutory requirements to set aside funds in reserves; and

(e) takes account of the transfer and disposal of assets.

Part 3: Annual budgets of municipalities

Format of annual budgets

9. The annual budget and supporting documentation of a municipality must be in the format specified in Schedule A and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[2]

Funding of expenditure[3]

10. (1) The funding of an annual budget must -

(a) be estimated in accordance with the assumptions and methodologies set out in the funding and reserves policy of the municipality referred to in regulation **8**; and

(b) be consistent with the trends, current and past, of actual funding collected or received.

(2) Realistically anticipated revenues to be received from national or provincial government, other municipalities, municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds. Acceptable documentation is constituted by –

(a) in the case of allocations from national or provincial government, the latest available –

(i) gazetted allocations to the municipality following the approval of the current year's Division of Revenue Act, national annual budget,

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[2] See the MFMA Budget Formats Guide published on the National Treasury's website.

[3] This regulation is intended to give effect to section 18 of the Act and must consequently be read in the context of that section.

national adjustments budget, relevant provincial annual budget or provincial adjustments budget;

(ii) proposed allocations to the municipality contained in the tabled national and provincial budgets as detailed in accordance with section 36(2) of the Act;

(iii) written notifications from the relevant treasury of proposed allocations subsequent to the previous year's national or provincial approved annual budgets and latest adjustment budgets, but prior to the current year's budgets being tabled; or

(iv) the previous years' allocations in the national and provincial annual budgets and adjustments budgets as gazetted;

(b) in the case of allocations from other municipalities, the latest available ~~of~~ –

(i) allocations in the approved annual budget or any subsequent approved adjustments budget of the transferring municipality;

(ii) proposed allocations contained in the tabled annual budget of the relevant transferring municipality;

(iii) written notification of proposed allocations from transferring municipalities communicated to the municipality in terms of section 37(2) of the Act; or

(iv) the previous year's allocations in the approved annual budget or any adjustments budget of the transferring municipality; and

(c) in the case of public contributions, donations, donor grants or any other grants, subsidies or contributions, the relevant contract or other legally binding document which guarantees the funding.

(3) Estimated provision for revenue from rates, taxes, levies or other charges that will not be collected must be budgeted for separately and reflected on the expenditure side of the municipality's annual budget and not netted out from budgeted revenue.

(4) The cash flow budget required in terms of Schedule A must reflect all funds realistically forecast to be collected, including arrears.

(5) The municipal manager in signing the quality certificate in Schedule A, certifies that all ratepayers and consumers are accounted for in the annual budget calculations and that billing systems including property records and metering information are up to date and consistent with the revenue projections in the annual budget.

(6) To determine whether an annual budget is funded in accordance with section 18 of the Act, a simultaneous analysis is required of the financial performance, financial position, cash flow, and capital expenditure budgets together with any requirements for working capital and cash investments held for statutory or contractual purposes.

Funding of capital expenditure

11. (1) An annual budget must show total capital expenditure and the different sources of funding[4].

(2) All sources of funding shown in terms of subregulation (1) must be available, and must not have been committed for other purposes.

(3) The total budgeted capital funding by source must equal the total budgeted capital expenditure.

Funds created in terms of section 12 of the Act

12. (1) Funds referred to in section 12 of the Act may only be created in accordance with the municipality's approved funding and reserves policy referred to in regulation **8**.

(2) Funds created in terms of section 12 of the Act must be cash backed to the extent required by the funding and reserves policy of the municipality.

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[4] See Table A5 Budgeted Capital Expenditure by Vote, Standard classification & Funding in Schedule A.

(3) A transfer of any funds to a separate bank account which the municipality has opened for a fund created in terms of section 12 of the Act must be approved in an annual budget or adjustments budget.

Approval of capital projects[5]

13. (1) Within five working days after the municipal council has given individual approval for a capital project in terms of section 19(1)(b) of the Act, the municipal manager must in accordance with section 21A of the Municipal Systems Act make public –

(a) the municipal council resolution approving the capital project; and

(b) details of the location and total projected cost of the approved capital project.

(2) The following capital projects may be approved by a council either individually or as part of a consolidated capital programme as contemplated in section 19(3) of the Act:

(a) capital projects of which the total projected cost is below 5% of the municipality's revenue, in the case of a municipality with approved total revenue in its current annual budget not exceeding R250 million;

(b) capital projects of which the total projected cost is below 8% of the municipality's revenue, in the case of a municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and

(c) capital projects of which the total projected cost is below R50 million, in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.[6]

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[5] Section 19 of the MFMA regulates budgetary matters in relation to capital projects. In terms of section 19(1)(b) a municipality may not spend any money on a capital project unless the council has approved the specific project including the total cost. Section 19(3), however, provides that capital projects below a prescribed value may be approved either individually or as part of a consolidated capital programme.

[6] Capital projects of which the total projected cost is above these values must be approved individually by the council in terms of section 19(1)(b) of the Act.

(3) Subregulation (1) does not apply to capital projects below the values set out in subregulation (2).

(4) Expenditure needed for capital projects below the values set out in subregulation (2) may be included in the annual budget before the project is approved in terms of section 19(3) of the Act.

Tabling of annual budgets in municipal councils[7]

14. (1) An annual budget and supporting documentation tabled in a municipal council in terms of sections 16(2) and 17(3) of the Act must –

(a) be in the format in which it will eventually be approved by the council; and

(b) be credible and realistic such that it is capable of being approved and implemented as tabled.

(2) When complying with section 68 of the Act, the municipal manager must submit the draft municipal service delivery and budget implementation plan to the mayor together with the annual budget to be considered by the mayor for tabling in terms of section 16(2) of the Act.

(3) For effective planning and implementation of the annual budget, the draft municipal service delivery and budget implementation plan may form part of the budget documentation and be tabled in the municipal council if so recommended by the budget steering committee.

Publication and submission of annual budgets for consultation

15. (1) When making public the annual budget and supporting documentation in terms of section 22(a) of the Act, read with section 21A of the Municipal Systems Act, the municipal manager must also make public any other information that the municipal council considers appropriate to facilitate the budget consultation process, including –

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[7] Tabling of an annual budget and supporting documentation in the council is dealt with in sections 16(2) and 17(3) of the Act. The purpose of this regulation is to prescribe certain matters incidental to the tabling of the annual budget.

(a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

(2) All information contemplated in subregulation (1) must cover:

(a) the financial and service delivery implications of the annual budget; and

(b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year, and the following two years.

(3) When submitting the annual budget to the National Treasury and the relevant provincial treasury in terms of section 22(b)(i) of the Act, the municipal manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form –

(a) the supporting documentation as tabled in the municipal council;

(b) the draft service delivery and budget implementation plan; and

(c) any other information as may be required by the National Treasury.

(4) The municipal manager must send copies of the annual budget and supporting documentation as tabled in the municipal council, in both printed and electronic form to –

(a) any other municipality affected by the annual budget within five working days of the annual budget being tabled in the municipal council; and

(b) any other organ of state on receipt of a request from that organ of state.

Consideration of annual budgets by municipal councils[8]

16. (1) At least 30 days before the start of the budget year the mayor must for purposes of section 23 of the Act table the following documents in the municipal council –

(a) a report detailing the local community's views on the annual budget;

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[8] Section 23 of the Act prescribes the procedure to be followed by a municipality once the budget has been tabled in the council, published for public comment and submitted to affected organs of state. The purpose of this regulation is to assist the council and the mayor to comply with section 23.

(b) any comments on the annual budget received from the National Treasury and the relevant provincial treasury;

(c) any comments on the annual budget received from any other organ of state, including any affected municipality; and

(d) any comments on the annual budget received from any other stakeholders.

(2) The municipal manager must assist the mayor in the preparation of the documents referred to in subregulation (1) and section 23(2) of the Act.

Approval of annual budgets[9]

17. (1) A municipal council must consider the full implications, financial or otherwise, of the annual budget and supporting documentation before approving the annual budget.

(2) When approving an annual budget, a municipal council must in terms of section 24(2)(c) of the Act, consider and adopt separate resolutions dealing with each of the matters contemplated in that section.[10]

Publication of approved annual budgets

18. (1) Within five working days after the municipal council has approved the annual budget of a municipality, the municipal manager must in accordance with section 21A of the Municipal Systems Act make public the approved annual budget and supporting documentation and the resolutions referred to in section 24(2)(c) of the Act.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of the annual budget, including –

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[9] A municipal council must approve an annual budget in accordance with section 24 of the Act. This regulation is intended to facilitate compliance with section 24.

[10] For a list of resolutions, see item 4 of Schedule A.

(a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

(3) All information contemplated in subregulation (2) must cover:

(a) the financial and service delivery implications of the annual budget; and

(b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year and the following two years.

Publication of approved service delivery and budget implementation plan

19. The municipal manager must in accordance with section 21A of the Municipal Systems Act make public the approved service delivery and budget implementation plan within five working days after the mayor has approved the plan in terms of section 53(1)(c)(ii) of the Act.

Submission of approved annual budget and other documents

20. (1) The municipal manager must comply with section 24(3) of the Act within five working days after the municipal council has approved the annual budget.

(2) The municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form –

(a) the supporting documentation within five working days after the municipal council has approved the annual budget;

(b) the approved service delivery and budget implementation plan within five working days after the mayor has approved the plan; and

(c) any other information as may be required by the National Treasury.

(3) The municipal manager must send copies of the approved annual budget and supporting documentation, in both printed and electronic form to –

(a) any other municipality affected by the annual budget within five working days after the municipal council has approved the annual budget; and

(b) any other organ of state on receipt of a request from that organ of state.

Part 4: Adjustments budgets of municipalities

Formats of adjustments budgets

21. An adjustments budget and supporting documentation of a municipality must be in the format specified in Schedule B and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[11]

Funding of adjustments budgets

22. (1) An adjustments budget of a municipality must be appropriately funded.

(2) The supporting documentation to accompany an adjustments budget in terms of section 28(5) of the Act must contain an explanation of how the adjustments budget is funded.

Timeframes for tabling of adjustments budgets

23. (1) An adjustments budget referred to in section 28(2)(b), (d), (e), and (f) of the Act may be tabled in the municipal council at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year.

(2) Only one adjustments budget referred to in subregulation (1) may be tabled in the municipal council during a financial year, except when the additional revenues contemplated in section 28(2)(b) of the Act are allocations to a municipality in a national or provincial adjustments budget, in which case subregulation (5) applies.

(3) An adjustments budget referred to in section 28(2)(c) of the Act must be tabled in the municipal council at the first available opportunity after the unforeseeable and unavoidable expenditure contemplated in that section was incurred.

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[11] See *MFMA Budget Formats Guide* published on the National Treasury's website.

(4)[12] An adjustments budget contemplated in section 28(2)(g) may –

(a) only authorise unauthorised expenditure as anticipated by section 32(2)(a)(i) of the Act;

(b) only be tabled in the municipal council during the financial year in which the unauthorised expenditure was incurred; and

(c) may not be approved by the municipal council after the end of the financial year in which the unauthorised expenditure was incurred.

(5)[13] If a national or provincial adjustments budget allocates additional revenues to a municipality, the mayor of the municipality must, within 30 days of the approval of the relevant national or provincial adjustments budget, or within such longer period as the National Treasury may approve, table an adjustments budget referred to in section 28(2)(b) in the municipal council to appropriate these additional revenues.

Submission of tabled adjustments budgets

24. (1) The municipal manager must comply with section 28(7) of the Act, read together with section 22(b)(i) of the Act, within five working days after the mayor has tabled an adjustments budget in the municipal council.

(2) When submitting the tabled adjustments budget to the National Treasury and the relevant provincial treasury in terms of section 28(7) of the Act, read together with section 22(b)(i) of the Act, the municipal manager must submit in both printed and electronic form –

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[12] Section 28(2)(g) of the Act requires a prescribed framework to regulate what other expenditure may be included in adjustments budgets that is not already covered by section 28(2)(a) to (f) of the Act. This subregulation is intended to provide such a framework.

[13] This subregulation is intended to ensure that additional revenues allocated to municipalities by national or provincial governments are approved for spending as soon as possible so as to minimise the possibility of underspending. If they only get approved in the adjustment budget contemplated in subregulation (1) there may be a gap of some months.

(a) the supporting documentation referred to in section 28(5) of the Act within five working days of the adjustments budget being tabled in the municipal council; and

(b) any other information as may be required by the National Treasury.

(3) The municipal manager must send copies of an adjustments budget and supporting documentation, in both printed and electronic form to –

(a) any other municipality affected by that adjustments budget within five working days of the adjustments budget being tabled in the municipal council; and

(b) any other organ of state on receipt of a request from that organ of state.

Approval of adjustments budget[14]

25. (1) A municipal council must consider the full implications, financial or otherwise, of the adjustments budget and supporting documentation referred to in regulation **21** before approving the adjustments budget.

(2) A municipal council may approve an adjustments budget dealing with matters referred to in section 28(2)(c) of the Act only if the expenditure was recommended by the mayor in accordance with the framework prescribed in Chapter **5** of these Regulations.

(3) When approving an adjustments budget, a municipal council must consider and adopt separate resolutions dealing with each of the matters listed in item **4** of Schedule **B**.

Publication of approved adjustments budget

26. (1) Within five working days after the municipal council has approved an adjustments budget, the municipal manager must in accordance with section 21A of

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[14] Section 28(1) of the Act provides that a municipality may revise an approved annual budget through an adjustments budget. This regulation is intended to facilitate compliance with section 28(1).

the Municipal Systems Act make public the approved adjustments budget and supporting documentation, as well as the resolutions referred to in regulation **25**(3).

(2) When making public an adjustments budget and supporting documentation in terms of subregulation (1), the municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the adjustments budget, including –

(a) summaries of the adjustments budget and supporting documentation in alternate languages predominant in the community;

(b) information relevant to each ward in the municipality, if that ward is affected by the adjustments budget; and

(c) any consequential amendment of the service delivery and budget implementation plan that is necessitated by the adjustments budget.

Submission of approved adjustments budget and other documents

27. (1) The municipal manager must comply with section 28(7) of the Act read together with section 24(3) of the Act within five working days after the municipal council has approved an adjustments budget.

(2) When submitting an adjustments budget to the National Treasury and the relevant provincial treasury in terms of section 28(7) of the Act read together with section 24(3) of the Act, the municipal manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form –

(a) the supporting documentation within five working days after the municipal council has approved the adjustments budget;

(b) the amended service delivery and budget implementation plan, within five working days after the council has approved the amended plan in terms of section 54(1)(c) of the Act; and

(c) any other information as may be required by the National Treasury.

(2) The municipal manager must send copies of an approved adjustments budget and supporting documentation, in both printed and electronic form to –

(a) any other municipality affected by that adjustments budget within five working days after the municipal council has approved the adjustments budget; and

(b) any other organ of state on receipt of a request from that organ of state.

Part 5: In-year reports of municipalities

Format of monthly budget statements

28. The monthly budget statement of a municipality must be in the format specified in Schedule C and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[15]

Tabling of monthly budget statements

29. The mayor may table in the municipal council a monthly budget statement submitted to the mayor in terms of section 71(1) of the Act. If the mayor does so, the monthly budget statement must be accompanied by a mayor's report in a format set out in Schedule **C**.

Publication of monthly budget statements

30. (1) The monthly budget statement of a municipality must be placed on the municipality's website.[16]

(2) The municipal manager must publish on the municipality's website any other information that the municipal council considers appropriate to facilitate public awareness of the monthly budget statement, including –

(a) summaries of monthly budget statements in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

Quarterly reports on implementation of budget

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[15] See *MFMA Budget Formats Guide* published on the National Treasury's website.

[16] See also section 75(2) of the Act.

31. (1) The mayor's quarterly report on the implementation of the budget and the financial state of affairs of the municipality as required by section 52(d) of the Act must be –

(a) in the format specified in Schedule **C** and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act; and

(b) consistent with the monthly budget statements for September, December, March and June as applicable; and

(c) submitted to the National Treasury and the relevant provincial treasury within five days of tabling of the report in the council.

Publication of quarterly reports on implementation of budget

32. When publishing the quarterly reports on the implementation of the budget in terms of section 75(1)(k) of the Act, the municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the quarterly report on the implementation of the budget and the financial state of affairs of the municipality, including –

(a) summaries of quarterly report in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

Format of a mid-year budget and performance assessment

33. A mid-year budget and performance assessment of a municipality referred to in section 72 of the Act must be in the format specified in Schedule **C** and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[17]

Publication of mid-year budget and performance assessments

34. (1) Within five working days of 25 January each year the municipal manager must make the mid-year budget and performance assessment public by placing it on the municipal website.

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[17] See *MFMA Budget Formats Guide* published on the National Treasury's website.

(2) The municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the mid-year budget and performance assessment, including –

(a) summaries in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

Submission of mid-year budget and performance assessments

35. The municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form –

(a) the mid-year budget and performance assessment by 25 January of each year; and

(b) any other information relating to the mid-year budget and performance assessment as may be required by the National Treasury.

CHAPTER 3
BUDGETS AND BUDGET RELATED MATTERS OF MUNICIPAL ENTITIES

Part 1: General provisions

Quality certification

36. Whenever an annual budget and supporting documentation, an adjustments budget and supporting documentation, or an in-year report of a municipal entity is submitted to the entity's board of directors or the parent municipality, tabled in the municipal council, made public or submitted to another organ of state, it must be accompanied by a quality certificate complying with Schedule D, E or F, as the case may be, and signed by the chief executive officer of the entity.

Consistency in bases of measurement and accounting policies

37. The chief executive officer of a municipal entity must take all reasonable steps to ensure that –

(a) the basis of measurement and accounting policies underpinning the entity's annual financial statements are the same as those used in the preparation of the entity's annual budget and supporting documentation, its adjustments budgets and supporting documentation and its in-year reports; and

(b) that any differences or changes between financial years are explicitly noted.

Part 2: Funding and reserves policy of municipal entities

Funding and reserves policies

38. When funding budgets, a municipal entity must apply the assumptions and methodology in its business plan for estimating –

(a) projected billings and collections;

(b) the provision for revenue that will not be collected;

(c) the funds that the municipal entity can expect to receive from investments;

(d) the dividends the municipal entity anticipates paying to the parent municipality;

(e) the proceeds the municipal entity can expect to receive from the disposal of assets;

(f) the municipal entity's borrowing requirements; and

(g) the funds to be set aside in reserves.

Part 3: Annual budgets of municipal entities

Format of annual budget[18]

39. The annual budget and supporting documentation of a municipal entity must be in the format specified in Schedule D and include all the required tables, charts

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[18] Section 87(5)(e) of the Act provides that the annual budget of a municipal entity must comply with the requirements of section 17(1) and (2) of the Act to the extent that such requirements can reasonably be applied to municipal entities. Section 17(1) provides that an annual budget of a municipality must be a schedule in the prescribed format. This regulation gives effect to section 17(1).

and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1)(a) of the Act.[19]

Funding of expenditure

40. (1) Realistically anticipated revenues to be received directly from the entity's parent municipality, other municipalities, other municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds. Acceptable documentation is constituted by –

(a) in the case of allocations from the entity's parent municipality or from other municipalities the latest available –
   (i) allocations in the approved annual budget or any subsequent approved adjustments budget of the relevant municipality;
   (ii) proposed allocations contained in the tabled annual budget of the relevant municipality;
   (iii) proposed allocations from transferring municipalities communicated to the municipality in terms of section 37(2) of the Act; or
   (iv) the previous years' allocations in the approved annual budgets and adjustments budgets of the relevant municipality; and

(b) in the case of public contributions, donations, donor grants and any other grants, subsidies or contributions, the relevant contract or other legally binding document which guarantees the funding.

(2) Estimated provision for revenue from rates, taxes, levies or other charges that will not be collected, must be budgeted for separately and reflected on the expenditure side of the municipal entity's annual budget and not netted out from budgeted revenue.

(3) The cash flow budget required in terms of Schedule **D** must reflect all funds forecast to be collected, including arrears.

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[19] See *MFMA Budget Formats Guide* published on the National Treasury's website.

(4) The chief executive officer in signing the quality certificate in Schedule D, certifies that all customers are accounted for in the annual budget calculations and that billing systems including metering information are up to date and consistent with the revenue projections in the annual budget.

(5) To determine whether an annual budget is funded in accordance with section 87(5)(a) of the Act a simultaneous analysis is required of the financial performance, financial position, cash flow, and capital expenditure budgets together with any requirements for working capital and cash investments held for statutory or contractual purposes.

Funding of capital expenditure[20]

41. (1) An annual budget of a municipal entity must show total capital expenditure and the different sources of funding for that expenditure.

(2) All sources of funding shown in terms of subregulation (1) must be available, and must not have been committed for other purposes.

(3) The total budgeted capital funding by source must equal the budgeted capital expenditure.

Parent municipalities to submit to treasuries information on capital projects approved by municipal entities

42. A parent municipality must submit to the National Treasury and the relevant provincial treasuries particulars of –

(a) each public entity's capital budget as approved by the board of directors of the municipal entity; and

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[20] Section 87(5)(e) of the Act provides that the annual budget of a municipal entity must comply with the requirements of section 17(1) and (2) to the extent that such requirements can reasonably be applied to municipal entities. Section 17(2) provides that an annual budget of a municipality must generally be divided into a capital and an operating budget. This regulation is intended to give effect to this provision in the municipal entity context.

(b) details of all capital projects of which the total projected cost is greater than R5 million as approved by the board of directors of the municipal entity.

Submission of annual budgets to parent municipality

43. An annual budget and supporting documentation of a municipal entity submitted by the board of directors of a municipal entity to the parent municipality of the entity in terms of section 87(1) of the Act must –

(a) be in the format in which it will eventually be approved by the board; and

(b) be credible and realistic such that it is capable of being approved and implemented as submitted.

Approval of annual budget

44. (1) The board of directors of a municipal entity must consider the full implications, financial and otherwise, of an annual budget and supporting documentation as prescribed by regulation **37**, taking into account the matters referred to in section 87(4) of the Act, before approving an annual budget.

(2) When approving an annual budget, the board of directors of a municipal entity must consider and adopt separate resolutions dealing with each of the matters listed in item **4** of Schedule **D**.

Submission of approved annual budgets for tabling[21]

45. Immediately after the board of directors of a municipal entity has approved the entity's annual budget in terms of section 87(4) of the Act, the chief executive officer must submit the approved annual budget and supporting documentation to the municipal manager of the parent municipality in both printed and electronic form.

[21] In terms of section 87((9) of the Act the mayor of the parent municipality of a municipal entity must table in the municipal council the annual budget approved by the board of directors of the municipal entity. This regulation facilitates compliance with this provision.

Publication of approved annual budgets

46. (1) Within five working days after the board of directors of a municipal entity has approved the annual budget of the entity in terms of section 87(4) of the Act, the municipal manager of the parent municipality must in accordance with section 21A of the Municipal Systems Act make public the approved annual budget of the entity.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of the municipal entity's annual budget, including –

(a) summaries of the annual budget and supporting documentation of the municipal entity in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

(3) The chief executive officer of a municipal entity must provide to the municipal manager of the parent municipality any additional information contemplated in subregulation (2) as the municipal manager may require.

(4) The information contemplated in subregulation (2) must cover –

(a) the financial and service delivery implications of the entity's annual budget; and

(b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year, and the following two years.

Submission of approved annual budgets

47. (1) When submitting the approved annual budget and supporting documentation of the municipality in terms of regulation **20**, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form, the approved annual budget and supporting documentation of all municipal entities under the municipality's sole or shared control.

(2) The municipal manager must send copies of the approved annual budget and supporting documentation of a municipal entity, in both printed and electronic form to -

(a) any other municipality affected by that budget within five working days of receiving the approved budget and supporting documentation from the municipal entity; and

(b) any other organ of state on receipt of a request from that organ of state.

Part 4: Adjustments budgets of municipal entities

Formats of adjustments budgets[22]

48. An adjustments budget and supporting documentation of a municipal entity must be in the format specified in Schedule **E** and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[23]

Framework for adjustments budgets

49. An adjustments budget referred to in section 87(6)(d) of the Act may only be used –

(a) to authorise the rollover of funds that were unspent at the end of the previous financial year; or

(b) to correct any errors in the annual budget of the municipal entity.

Approval of adjustments budgets

50. Whenever a proposed adjustments budget and supporting documentation is submitted to the board of directors of a municipal entity, the chief executive officer of the entity must submit a copy to the municipal manager of the entity's parent municipality.

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[22] Section 20(1)(b)(v) of the Act provides that the Minister may prescribe uniform norms and standards concerning the budgets of municipal entities.

[23] See *MFMA Budget Formats Guide* published on the National Treasury's website.

Submission of approved adjustments budgets

51. Immediately after the board of directors of a municipal entity has approved an adjustments budget, the chief executive officer must submit the approved adjustments budget and supporting documentation to the municipal manager of the parent municipality in both printed and electronic form.

Publication of approved adjustments budgets

52. (1) Within five working days after the board of directors of a municipal entity has approved an adjustments budget of the entity, the municipal manager of the parent municipality must in accordance with section 21A of the Municipal Systems Act make public the approved adjustments budget of the entity.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of a municipal entity's adjustments budgets, including –

(a) summaries of an adjustments budget and supporting documentation of the municipal entity in alternate languages predominant in the community; and

(b) information relevant to each ward in the municipality.

(3) The chief executive officer of a municipal entity must provide such additional information contemplated in subregulation (2) to the municipal manager of the parent municipality.

Submission of approved adjustments budgets

53. (1) Within five working days of the end of each quarter, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form all approved adjustments budgets and supporting documentation received from municipal entities during that quarter.

(2) The municipal manager must send copies of the approved adjustments budget and supporting documentation of a municipal entity, in both printed and electronic form to -

(a) any other municipality affected by the adjustments budget within five working days of receiving the approved adjustments budget and supporting documentation from the municipal entity; and

(b) any other organ of state on receipt of a request from that organ of state.

Part 5: In-year reports of municipal entities

Formats of monthly budget statements

54. A monthly budget statement of a municipal entity must be in the format specified in Schedule **F** and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[24]

Submission of monthly budget statements

55. When submitting a monthly budget statement in terms of section 87(11) of the Act to the municipal manager of the parent municipality of a municipal entity, the chief executive officer of the entity must also submit a copy of the statement no later than seven working days after the end of the month to –

(a) the chairperson of the board of directors of the entity;

(b) other municipalities affected by the entity's annual budget; and

(c) any other organ of state, on receipt of a request from that organ of state.

Format of a mid-year budget and performance assessment

56. A mid-year budget and performance assessment of a municipal entity must be –

(a) in the format specified in Schedule **F** and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act;[25] and

(b) consistent with the entity's monthly budget statements for December.

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[24] See *MFMA Budget Formats Guide* published on the National Treasury's website.

[25] See *MFMA Budget Formats Guide* published on the National Treasury's website.

Tabling of mid-year budget and performance assessments

57. When the mayor of the parent municipality submits the report on the mid-year budget and performance assessment of the municipality in terms of section 54(1)(f) of the Act, the mayor must take all reasonable steps to simultaneously table in the municipal council the reports on the mid-year budget and performance assessments of all municipal entities under the sole or shared control of the municipality.

Publication of mid-year budget and performance assessments

58. (1) When making public the mid-year budget and performance assessment of the parent municipality in terms of regulation **34**, the municipal manager must make public in accordance with section 21A of the Municipal Systems Act the mid-year budget and performance assessments of all municipal entities.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of a municipal entity's mid-year budget and performance assessment, including –

(a) summaries of the mid-year budget and performance assessment of the municipal entity in alternate languages predominant in the community; and

(a) information relevant to each ward in the municipality.

(3) The chief executive officer of a municipal entity must provide such additional information contemplated in subregulation (2) to the municipal manager of the parent municipality as the municipal manager may require.

Submission of mid-year budget and performance assessments

59. When submitting the mid-year budget and performance assessment of the municipality in terms of regulation **35**, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form, the mid-year budget and performance assessments of all municipal entities of the municipality.

CHAPTER 4
NON-COMPLAINCE WITH TIME PROVISIONS

Part 1: Impending non-compliance by municipalities with time lines and deadlines concerning annual budgets

Applications for extension of time limits[26]

60. (1) An application made in terms of section 27(2) of the Act must –

(a) be in the format contained in Schedule **G**;

(b) be signed and dated by the mayor;

(c) contain information on –

(i) the specific time provision in respect of which an extension of a time limit or deadline is being applied for;

(ii) the reason why the municipality will not comply with the relevant time provision;

(iii) the impact, if any, of the non-compliance on the municipal council's ability to meet the deadline for approving the annual budget of a municipality set in section 16(1) of the Act, and any steps to ensure this deadline is met;

(iv) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;

(v) the steps the municipality will take to ensure compliance with the relevant time provision in future; and

(vi) a list of previous non-compliances with time provisions by the municipality.

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[26] Section 27(2) of the Act provides that the mayor of a municipality may apply for an extension to a time provision pertaining to the tabling or approval of the annual budget of the municipality. This regulation facilitates the application of section 27(2).

(2) The mayor must table a copy of any application referred to in subregulation (1) at the first meeting of the municipal council following the submission of the application.

Framework for consideration of applications [27]

61. (1) The MEC for finance in a province must promptly consider an application referred to in regulation **60**, taking into account all relevant factors, including –

(a) the time provision in respect of which an extension of a time limit or deadline is being sought;

(b) whether the stated reasons for the impending non-compliance with the time provision constitute good cause;

(c) whether the non-compliance will compromise the municipal council's ability to meet the deadline for approving the annual budget set in section 16(1) of the Act;

(d) the steps the municipality proposes to take to ensure compliance with the relevant time provision in future;

(e) the steps the municipality proposes to take to ensure that municipal council meets the deadline for approving the annual budget of the municipality set in section 16(1) of the Act, if relevant; and

(f) any views that may be expressed by the National Treasury on the application.

(2) The MEC for finance must obtain the views of the National Treasury before communicating the decision on the application to the municipality.

(3) The MEC for finance may require a mayor who has submitted an application referred to in regulation **60** to furnish additional information necessary for the proper consideration of the application.

(4) The MEC for finance must refuse an application if –

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[27] The MEC for finance must exercise the power contained in section 27(2) within a prescribed framework. This regulation sets out the required framework.

(a) the stated reasons for the impending non-compliance with the time provision do not constitute good cause as required in section 27(2) of the Act;

(b) the extension of the relevant time limit will compromise the municipal council's ability to meet the deadline set in section 16(1) of the Act;

(c) there is an implication on the finances, performance, governance and accountability arrangements in the municipality that will negatively impact on the operations of the municipality; or

(d) if non-compliance with the time provision has already occurred on the date the application is received by the office of the MEC of finance.

(5) Within 10 working days of receiving an application referred to in regulation **60**, the MEC for finance must, in writing, notify the mayor of the municipality of the decision on the application, either –

(a) approving the application, confirming the new date for compliance proposed in the application;

(b) approving the application, but indicating an earlier date for compliance to that proposed in the application, giving reasons for specifying an earlier date; or

(c) refuse the application, giving reasons for the decision.

(6) The mayor must table the response of the MEC for finance to any application referred to in regulation **60** at the first meeting of the municipal council following the receipt of the response.

Possible non-compliance with section 16(1) of the Act

62. If a municipality's ability to comply with the deadline set in section 16(1) of the Act will be compromised by any application for an extension in terms of regulation **60**, the MEC for finance must notify the MEC for local government in the province and the Provincial Executive Council in anticipation of an intervention in terms of section 136 of the Act.

Part 2: Actual non-compliance by municipalities with time provisions concerning annual budgets and adjustments budgets

Notification of actual non-compliance with time provisions

63. (1) A notification made in terms of section 27(3) of the Act by the mayor of a municipality to the MEC for finance in a province and the National Treasury, in respect of a time provision concerning an annual budget or an adjustments budget must –

(a) be in the format contained in Schedule **G**;

(b) be signed and dated by the mayor;

(c) contain information on –

(i) the specific time provision in respect of which the municipality is failing to comply;

(ii) the specific date by which the municipality will remedy its non-compliance;

(iii) the reason why an application in terms of section 27(2) of the Act was not submitted before the non-compliance occurred;

(iv) the reason why the municipality did not comply with the relevant time provision;

(v) the impact, if any, of the non-compliance on the municipal council's ability to meet the deadline for approving an annual budget of a municipality set in section 16(1) of the Act, and any steps to ensure this deadline is met;

(vi) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;

(vii) the steps the municipality will take to ensure compliance with the relevant time provision in future; and

(viii) a list of previous non-compliances with time provisions by the municipality.

(2) The mayor must table a copy of any notification referred to in subregulation (1) at the first meeting of the municipal council following the submission of the notification.

Framework for consideration of notifications of non-compliance with time provisions affecting annual budgets and adjustments budgets

64. (1) The MEC for finance in a province must promptly consider notifications referred to in regulation **63** with a view to take appropriate remedial steps, including an intervention in terms of section 136 of the Act.

(2) When considering such notifications the MEC must take into account all relevant factors, including –

(a) the time provision in respect of which the non-compliance occurred;

(b) the extent of the actual non-compliance;

(c) the acceptability of the date by which the municipality will remedy its non-compliance, if this is legally possible in terms of the Act;

(d) whether the non-compliance has compromised or will compromise the municipal council's ability to meet the deadline for approving an annual budget of a municipality set in section 16(1) of the Act;

(e) the steps the municipality proposes to take to ensure compliance with the relevant time provision in future, and

(f) the steps the municipality proposes to take to ensure that municipal council meets the deadline for approving an annual budget of a municipality set in section 16(1), if relevant.

(2) The MEC for finance may require a mayor who has submitted a notification referred to in regulation **63** to furnish additional information necessary for the proper consideration of the notification.

Part 3: Non-compliance by municipalities with time provisions concerning in-year reports

Notification of non-compliance with time provisions concerning in-year reports

65. (1) The municipal manager of a municipality must notify the mayor of the municipality, the MEC for finance of the relevant province and the National Treasury if the municipal manager has failed to comply with a time provision pertaining to any in-year report.

(2) Such notification must –

(a) be in the format contained in Schedule **G**;

(b) be signed and dated by the municipal manager;

(c) contain information on –

(i) the specific time provision which has not been complied with;

(ii) the specific date by which the municipality will remedy the non-compliance;

(iii) the reason why the relevant time provision was not complied with;

(iv) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;

(v) the steps the municipality will take to ensure compliance with the relevant time provision in future; and

(vi) a list of previous non-compliance with time provisions by the municipality and its office-bearers.

(3) The mayor must table a copy of any notification referred to in subregulation (1) at the first meeting of the municipal council following the receipt of the notification.

Framework for consideration of notifications of non-compliance with time provisions concerning in-year reports

66. (1) The MEC for finance in a province must promptly consider notifications referred to in regulation **65** with a view to take any appropriate steps.

(2) When considering such notifications, the MEC must take into account all relevant factors, including –

(a) the time provision in respect of which the non-compliance occurred;

(b) the extent of the non-compliance;

(c) the acceptability of the date by which the municipality will remedy the non-compliance; and

(d) the steps the municipality proposes to take to ensure compliance with the relevant time provision in future.

(3) The MEC for finance in the province may require a municipal manager who has submitted a notification referred to in regulation **65** to furnish additional information necessary for the proper consideration of the notification.

Part 4: Non-compliance by municipal entities with time provisions

Monitoring compliance with time provisions

67. (1) The mayor of the parent municipality of a municipal entity must put in place systems to monitor whether the entity complies with the time provisions affecting its annual budget, adjustments budgets and in-year reports.

(2) Within five working days of the end of each quarter, the mayor of a municipality must report to the council on the extent to which each municipal entity of the municipality is complying with the time provisions affecting its budget, adjustments budget and in-year reports, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act.[28]

Notifications of non-compliance with time provisions

68. (1) The chief executive officer of a municipal entity must notify the board of directors of the entity and the municipal manager of the parent municipality of any non-compliance with a time provision concerning the entity's annual budget, adjustments budget or in-year reports.

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[28] See *MFMA Budget Formats Guide* published on the National Treasury's website.

(2) Such notification must –

(a) be in the format contained in Schedule **G**;

(b) be signed and dated by the chief executive officer; and

(c) contain information on –

(i) the specific time provision which the entity has failed to comply with;

(ii) the specific date by which the entity will remedy its non-compliance;

(iii) the reason why the entity did not comply with the relevant time provision;

(iv) any implications on the finances, performance, governance and accountability arrangements in the entity that will be affected by the delay in meeting the time provision and the measure taken to address such implications;

(v) the steps the entity will take to ensure compliance with the relevant time provision in future; and

(vi) a list of previous non-compliance with time provisions by the municipal entity.

Framework for consideration of notifications of non-compliance with time provisions

69. (1) The mayor of the parent municipality must promptly consider a notification referred to in regulation **68** with a view to take appropriate steps.

(2) When considering such notifications, the mayor must take into account all relevant factors, including –

(a) the time provision in respect of which the non-compliance occurred;

(b) the extent of the non-compliance;

(c) the acceptability of the date by which the municipal entity will remedy its non-compliance; and

(d) the steps the entity proposes to take to ensure compliance with the relevant time provision in future.

(3) The mayor of the parent municipality may require a chief executive officer of the municipal entity who has submitted a notification referred to in regulation **68** to furnish additional information necessary for the proper consideration of the notification.

(4) The mayor must table at the first meeting of the municipal council following the receipt of a notification referred to in subregulation (1).–

(a) a copy of the notification; and

(b) a report on steps taken to remedy the non-compliance.

Submission of information to National Treasury

70. The municipal manager must promptly send to the relevant provincial treasury and the National Treasury a copy of a notification received from the chief executive officer of a municipal entity referred to in regulation **68** together with a copy of the report referred to in regulation **69**(4)(b).

CHAPTER 5
FRAMEWORK FOR UNFORESEEN AND UNAVOIDABLE EXPENDITURE[29]

Part 1: Unforeseen and unavoidable expenditure by municipalities

Authorisation of unforeseen and unavoidable expenditure

71. (1) The mayor of a municipality may authorise expenditure in terms of section 29 of the Act only if –

(a) the expenditure could not have been foreseen at the time the annual budget of the municipality was passed; and

(b) the delay that will be caused pending approval of an adjustments budget by the municipal council in terms of section 28(2)(c) of the Act to authorise the expenditure may –

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[29] Sections 28(2)(b), 29 and 87(6)(c) of the Act require frameworks to guide the approval and authorisation of unforeseeable and unavoidable expenditure. This Chapter is intended to provide the required frameworks.

(i) result in significant financial loss for the municipality;

(ii) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;

(iii) lead to loss of life or serious injury or significant damage to property; or

(iv) obstruct the municipality from instituting or defending legal proceedings on an urgent basis.

(2) The mayor of a municipality may not authorise expenditure in terms of section 29 of the Act if the expenditure –

(a) was considered by the council, but not approved in the annual budget or an adjustments budget;

(b) is required for –

(i) price increases of goods or services during the financial year;

(ii) new municipal services or functions during the financial year;

(iii) the extension of existing municipal services or functions during the financial year;

(iv) the appointment of personnel during the financial year; or

(v) allocating discretionary appropriations to any vote during the financial year; or

(c) would contravene any existing council policy; or

(d) is intended to ratify irregular or fruitless and wasteful expenditure.

(3) The mayor's power to authorise expenditure in terms of section 29 of the Act may not be delegated.

Monetary limits on unforeseen and unavoidable expenditure

72. The amount of expenditure that a mayor of a municipality may authorise in terms of section 29 of the Act is limited to –

(a) 4% of the municipality's revenue in the case of a municipality with approved total revenue in its current annual budget not exceeding R250 million;

(b) 3% of the municipality's revenue in the case of a municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and

(c) 1% of the municipality's revenue in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.

Part 2: Unforeseen and unavoidable expenditure by municipal entities

Approval of unforeseen and unavoidable expenditure

73. (1) The board of directors of a municipal entity and the mayor of the parent municipality may approve expenditure in terms of section 87(6)(c) of the Act only if –

(a) the expenditure could not have been foreseen at the time the annual budget of the entity was passed; and

(b) the delay that will be caused pending approval of an adjustments budget to authorise the expenditure may–

(i) result in significant financial loss for the entity;

(ii) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;

(iii) lead to loss of life or serious injury or significant damage to property; or

(iv) obstruct the entity from instituting or defending legal proceedings on an urgent basis.

(2) The board of directors of a municipal entity and the mayor of the parent municipality may not approve expenditure in terms of section 87(6)(c) of the Act if the expenditure–

(a) was considered by the board but not included in the approved annual budget of the entity;

(b) is required for –

(i) price increases of goods or services during the financial year;

(ii) new municipal services or functions during the financial year;

(iii) the extension of existing municipal services or functions during the financial year;

(iv) the appointment of personnel during the financial year;

(v) increasing the remuneration or allowances of board members; or

(vi) allocating discretionary appropriations to any vote during the financial year;

(c) would contravene any existing policy of the entity or its parent municipal; or

(d) is intended to ratify irregular or fruitless and wasteful expenditure.

(3) Expenditure may be incurred by a municipal entity as unforeseen and unavoidable expenditure only after the municipal entity has communicated its intention in writing to the mayor of the parent municipality and the mayor has responded positively to the request. Such expenditure must still be approved by the board of directors appropriating the expenditure in an adjustments budget.

CHAPTER 6
UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE

Part 1: Unauthorised, irregular or fruitless and wasteful expenditure by municipalities

Issues to be considered by council committee[30]

74. (1) A council committee contemplated in section 32(2)(a)(ii) of the Act to investigate the recoverability of any unauthorised, irregular or fruitless and wasteful expenditure must consider –

(a) the measures already taken to recover such expenditure;

(b) the cost of the measures already taken to recover such expenditure;

(c) the estimated cost and likely benefit of further measures that can be taken to recover such expenditure; and

(d) submit a motivation explaining its recommendation to the municipal council for a final decision.

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[30] In terms of section 32(2)(a)(ii) of the Act a council committee must investigate the recoverability of irregular, fruitless and wasteful expenditure before it can be certified as irrecoverable by the municipal council. This regulation is intended to ensure that uniform norms and standards inform the investigations of such council committees, and that they will be given access to all the necessary information.